Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

80-330

NO.____

in the

Supreme Court

of the

United States

OCTOBER TERM, 1980

IN RE:
UNITED BEEF PACKERS, INC.
Petitioner

APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE FIFTH CIRCUIT

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Attorneys for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

No. G. J. No. 79-5(MIA)

In re
UNITED BEEF PACKERS, INC.

ORDER

This matter having come before this court on the United Beef Packers Motion to Quash Grand Jury Subpoena and upon consideration of:

A. Representations by the Assistant United States Attorney that this Grand Jury Investigation involves investigation of more than one United States Department of Agriculture Certificate in possession of or previously in possession of United Beef Packers and upon consideration of:

B. Applicable case law: *Branzburg v. Hayes*, 408 U.S. 665 (1972), *United States v. Sahley*, 526 F.2d 913 (5th Cir. 1976), *Matter of Berry*, 521 F.2d 179 (10th Cir., 1975), *United States v. Gurule*, 437 F.2d 239, (10th Cir., 1970), *Donnelly v. United States*, 201 F.2d 826 (9th Cir., 1953). *In Re Rabbinical Seminary Etc.*, 450 F.Supp 1078 (E.D.N.Y., 1978), *In Re Grand Jury Subpoena Duces Tecum Etc.*, 405 F.Supp 1192 (N.D. Ga., 1975), *In Re Grand Jury Subpoenas Duces Tecum Addressed to Certain Executive Officers of the M.*

G. Allen & Associates, Inc., 391 F.Supp 991 (D. Rhode Island, 1975), *In Re Corrado Brothers, Inc.*, 367 F.Supp 1126 (D. Delaware, 1973), *In Re Grand Jury Proceedings*, 73 FRD 647 (M.D.F.L., 1977), Title 21, United States Code, Section 42, and upon consideration of;

C. Argument of counsel and this Court being fully advised.

THIS COURT FINDS THAT:

1. That the subpoenaed documents are relevant to the aforementioned investigation and,

2. That the subpoena is specific with a reasonable particularity in identifying the subpoenaed documents and

3. That the subpoena requests the production of documents covering and encompassing a reasonable period of time and

4. That the subpoena is not overbroad.

It is hereby,

ORDERED AND ADJUDGED that United Beef Packers Motion to Quash Grand Jury Subpoena is hereby denied as to the documents listed thereon and,

ORDERED AND ADJUDGED that United Beef Packers shall produce the subpoenaed documents

before the Grand Jury on the 3rd day of October, 1979 at 1:00 P.M.

ORDERED AND ADJUDGED that United Beef Packers Motion to Quash Grand Jury Subpoena is granted as to the typewriters described on such subpoena, until such a time wherein the Grand Jury files a written request for production of said typewriters and upon further Order of this Court.

DONE AND ORDERED in Miami, Florida this 26 day of September, 1979.

Sidney M. Aronovitz

UNITED STATES DISTRICT JUDGE

cc: AUSA Paul G. Hyman, Jr.
William Bruce Harper, Jr.,
(Defense Counsel)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

GRAND JURY No. 79-5 (MIA)

IN RE:
UNITED BEEF PACKERS

ORDER

By Order dated September 26, 1979, this Court granted United Beef Packers' Motion to Quash that portion of a Grand Jury Subpoena *Duces Tecum* which would require the production of designated typewriters. However, the Court further stated that it would reconsider the matter if the Grand Jury supplemented the subpoena with a formal written request for production of the typewriters in question. The Grand Jury, having filed such a written request for production, it is

ORDERED AND ADJUDGED that at a mutually convenient time, United Beef Packers shall produce, at its place of business, each and every typewriter in its custody, possession or control in order that type exemplars be taken.

DONE AND ORDERED in Chambers at Miami, Florida, this 29 day of September, 1979.

Sidney M. Aronovitz
UNITED STATES DISTRICT JUDGE

Copies furnished to:
U.S. Attorney
United Beef Packers, c/o William Bruce Harper, Esq.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 79-3395

IN RE: UNITED BEEF PACKERS, INC.
UNITED BEEF PACKERS, INC.,
Appellant,

versus

UNITED STATES OF AMERICA,
Appellee.

Appeal from the United States District Court for the Southern District of Florida

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Before GEE, RUBIN and POLITZ, Circuit Judges.

BY THE COURT:

IT IS ORDERED that appellee's motion to dismiss the appeal is GRANTED. In re Oswalt, 607 F.2d 645 (5th Cir. 1979); United States v. Grand Jury, 425 F.2d 327 (5th Cir. 1970).

Filed: March 26, 1980.

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

OFFICE OF THE CLERK

July 9, 1980

TO ALL PARTIES LISTED BELOW:

NO. 79-3395

In Re:
United Beef Packers, Inc.
United Beef Packers, Inc.,

-vs-

United States of America

Dear Counsel:

This is to advise that an order has this day been entered denying the petition( ) for rehearing, and no member of the panel nor Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure; Local Fifth Circuit Rule 16) the petition ( ) for rehearing en banc has also been denied.

See Rule 41, Federal Rules of Appellate Procedure for issuance and stay of the mandate.

Very truly yours,

GILBERT F. GANUCHEAU,
Clerk

By H. E. ADAMS, JR.
Deputy Clerk

cc: Mr. William Bruce Harper, Jr.
Mr. Atlee W. Wampler, III
Mr. Paul Hymn, Jr.